

**CALENDAR ITEM
C01**

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04/20/17

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PRC 8719.1

M.J. Columbus

**AUTHORIZE ISSUANCE OF A GENERAL LEASE – COMMERCIAL AND
RECREATIONAL USE, AND ENDORSEMENT OF A SUBLEASE**

APPLICANT/LESSEE/SUBLESSOR:

Donner Lake Village Owners Association

SUBLESSEE:

Donner Lake Water Adventures, Inc., dba Donner Lake Marina

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Donner Lake, adjacent to 15695 Donner Pass Road, town of Truckee, Nevada County.

AUTHORIZED USE:

LEASE: Continued use and maintenance of two existing uncovered floating boat docks, two ramps, 10 uncovered slips, and a fixed pier, previously authorized by the Commission; two existing marker buoys not previously authorized by the Commission; and a commercial marina, known as Donner Lake Marina, consisting of an existing uncovered floating boat dock and five uncovered slips previously authorized by the Commission.

SUBLEASE: Operation, use, and maintenance of a commercial marina with concessions consisting of six personal watercraft lift floats, one kayak rack, five ski boats, two pontoon boats, 10 kayaks/canoes, and six paddle boards.

LEASE TERM:

LEASE: 10 years, beginning May 1, 2016.

SUBLEASE: 10 years, beginning May 1, 2016.

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CONSIDERATION:

\$22,310 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

Insurance: Commercial liability insurance in an amount no less than \$2,000,000 per occurrence.

Bond or Other Security: \$20,000

Other: The proposed lease will include Best Management Practices for Marina Owners/Operators and Best Management Practices for Guest Dock Users and Boaters.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

On November 21, 2006, the Commission authorized a General Lease – Commercial and Recreational Use, and approval of a sublease to Donner Lake Village Owners Association, for a Commercial Marina consisting of a floating dock and ramp with five slips, six personal watercraft lifts, and a kayak rack; and a recreational use facility consisting of ramps with five slips each, and two existing floating docks and a fixed pier ([Calendar Item C16, November 21, 2006](#)). On April 23, 2014, the Commission authorized an Amendment of Lease to include the rental operation of one additional pontoon boat, two additional ski boats, and six paddle boards ([Calendar Item C38, April 23, 2014](#)). The lease expired on April 30, 2016. The Applicant is applying for issuance of a new General Lease – Commercial and Recreational Use, and Endorsement of a Sublease for the continued use and maintenance of the existing commercial marina and recreational facilities. The Applicant is requesting approval of a sublease for the continued use, maintenance, and operation of the Commercial Marina and Concession by the Operator, Donner Lake Marina. The Applicant's two marker buoys are privately owned and maintained and have been in Donner Lake for many years, but were not previously authorized by the Commission. The Applicant owns the upland adjoining the lease premises.

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The subject facilities have existed for many years at this location. The facilities are used for recreational boating. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the Lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust consistent uses. Upon termination of the lease, the Lessee may be required to remove all improvements from State land.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee and sublessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the use of public land. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine, will not substantially interfere with the Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease, and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
2. The staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

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Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location at this time and for the foreseeable term of the lease, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

1. Authorize issuance of a General Lease – Commercial and Recreational Use to Donner Lake Village Owners Association beginning May 1, 2016, for a term of 10 years, for continued use

CALENDAR ITEM NO. **C01** (CONT'D)

and maintenance of two existing uncovered floating boat docks, two ramps, 10 uncovered slips, and a fixed pier, previously authorized by the Commission; two existing marker buoys not previously authorized by the Commission, and a commercial marina, known as Donner Lake Marina, consisting of an existing uncovered floating boat dock and five uncovered slips previously authorized by the Commission, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$22,310, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$2,000,000 per occurrence; and a surety bond or other security in the amount of \$20,000.

2. Authorize, by endorsement, a sublease between Donner Lake Village Owners Association and Donner Lake Water Adventures, Inc., dba Donner Lake Marina, of Lease No. PRC 8719.1, which shall be subject to the terms of Lease No. PRC 8719.1, for a term of 10 years, beginning May 1, 2016.

EXHIBIT A

PRC 8719.1

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Donner Lake, lying adjacent to Government Lot 4 of fractional Section 14, Township 17 North, Range 15 East, MDM, as shown on Official Government Township Plat approved April 10, 1867, County of Nevada, State of California and more particularly described as follows:

Parcel 1 – Dock Facilities

Bounded on northwest by the low water mark of Donner Lake; bounded on the northeast by the southeasterly prolongation of the northeast line of Parcel 1 as shown on that Tract Map "Donner Village Unit 1" filed in Book 5 of Maps at Page 13 County Recorder of said County; bounded on the southeast by a line running parallel to and 90 feet perpendicular of said low water mark; bounded on the southwest by the southeasterly prolongation of the southwest line of said Parcel 1.

Parcel 2 & 3 – Marker Buoys

Two (2) circular parcels of land, each being 50 feet in diameter, underlying two existing buoys adjacent to the above described Parcel 1.

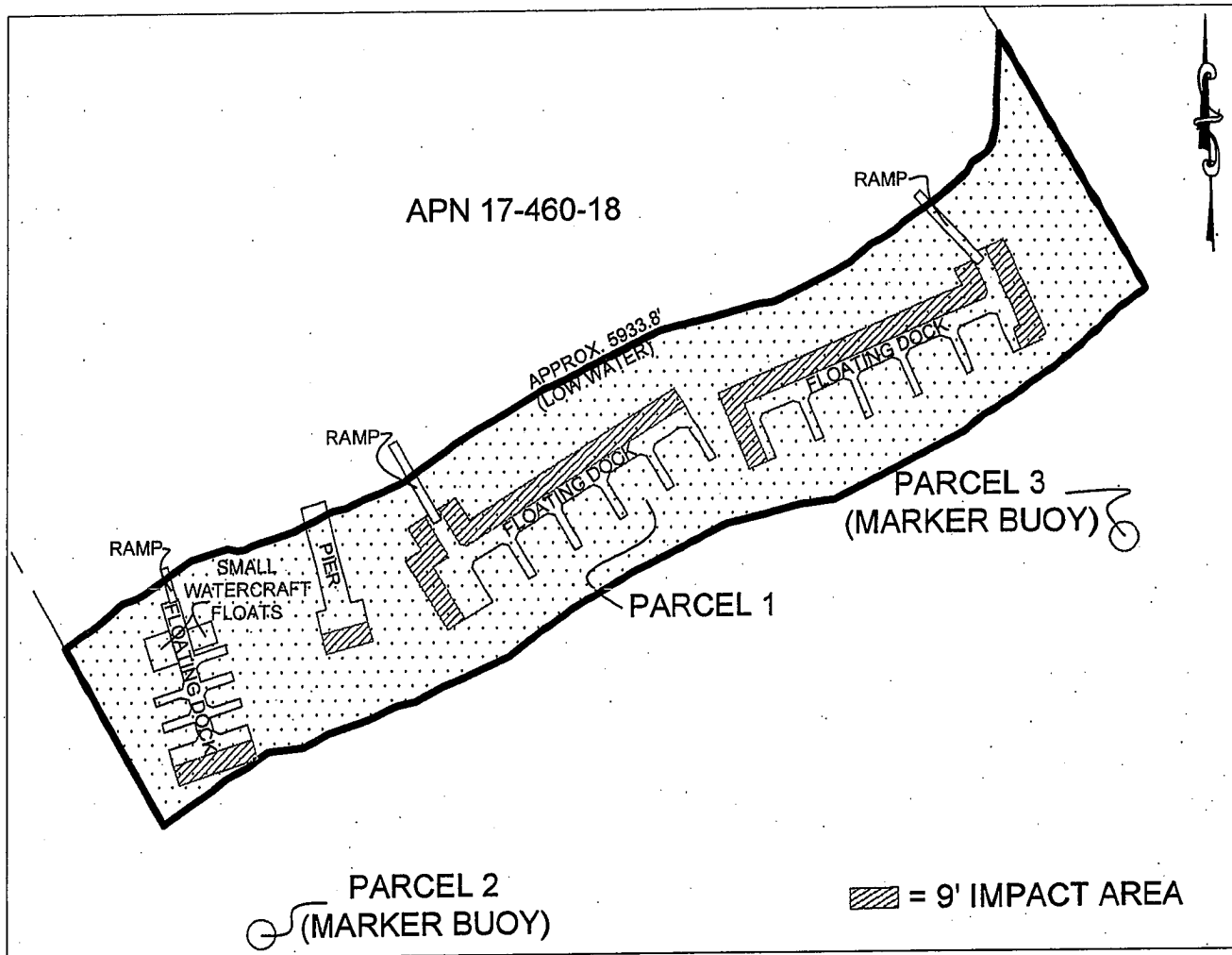
END OF DESCRIPTION

PREPARED BY 9/07/16 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



NO SCALE

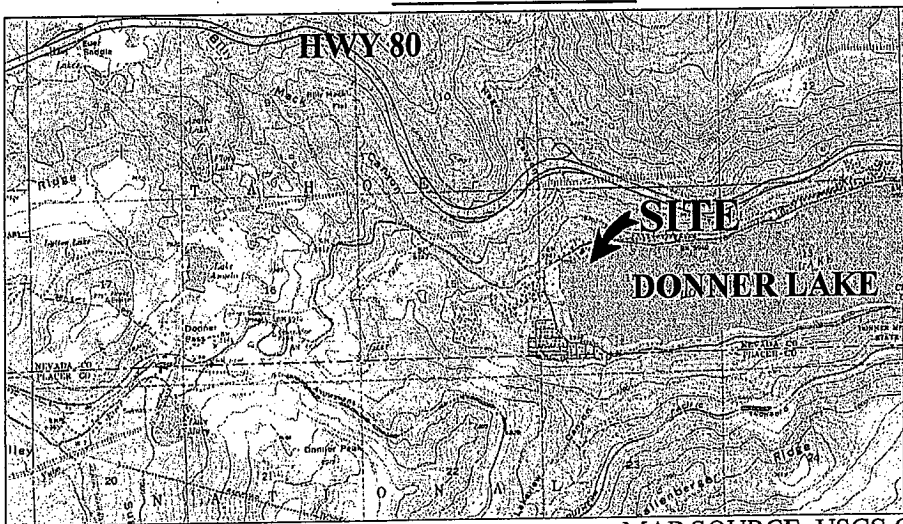
SITE



15695 DONNER PASS RD., TRUCKEE

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

PRC 8719.1
APN:17-460-18
DONNER LAKE VILLAGE
OWNERS ASSOCIATION
GENERAL LEASE - COMMERCIAL
AND RECREATIONAL USE
NEVADA COUNTY



MJP 3/03/17